DOCUMENT RESUME

ED 068 433 SO 005 070

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| AUTHOR | Henderson, Jerry W. |
| TITLE | Eye for an Eye, A Survey History of Law, Social Studies: 6448.06. |
| INSTITUTION | Dade County Public Schools, Miami, Fla. |
| PUB DATE | 71 |
| NOTE | 42p.; An Authorized Course of Instruction for the Quinmester Program |
| EDRS PRICE | MF-$0.65 HC-$3.29 |
| DESCRIPTORS | Activity Units; Behavioral Objectives; Civics; Court Litigation; Courts; Curriculum Guides; Grade 10; Grade 11; Grade 12; High Schools; Interdisciplinary Approach; Law Enforcement; *Law Instruction; Laws; Legal Problems; Legal Responsibility; *Political Science; *Social Studies Units |
| IDENTIFIERS | Florida; *Quinmester Program; Social Justice |

ABSTRACT

This guide is one of a series in the Quinmester Program to aid high school teachers in planning instructional programs concerning the origins and evolution of our system of law. The purpose of this course of study is to help students understand the rights and responsibilities of citizens under the law; to motivate them to make judgments upon the evolutionary nature of law; and to recognize the importance of equal justice. The first section of this course study aid provides descriptive and goal-oriented information for the teacher. In the second part, the content outline illustrates the scope and major subdivisions of the course. Part three focuses on the objectives and learning activities that are used in order to provide a total picture of the concept and specific behavioral objectives for a set of given learning activities. The last section lists materials and resources in four categories: essential textual material; alternate classroom materials to be used in place of or in addition to the aforementioned; supplementary teacher resources; and supplementary student resources. (Several pages may be illegible.) (FDI)

ED 068433

AUTHORIZED COURSE OF INSTRUCTION FOR THE QUINMESTER PROGRAM

SP 005070

SOCIAL STUDIES

# EYE FOR AN EYE

## A Survey History of Law

6448.06
6414.15
6416.41

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DADE COUNTY PUBLIC SCHOOLS

DIVISION OF INSTRUCTION • 1971

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SOCIAL STUDIES

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by

Jerry W. Henderson

for the

Division of Instruction
Dade County Public Schools
Miami, Florida
1971

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# INTRODUCTION

This course of study was written as part of a total effort to revise curriculum to fit the quinmester administrative organization of schools. The materials and information in this guide are meant to be neither all-inclusive nor prescriptive; but rather, an aide to teachers as they plan instructional programs, taking into account student needs and characteristics, available resources, and other factors.

The major intent of this publication is to provide a broad framework of goals and objectives, content, teaching strategies, class activities, and materials all related to a described course of study. Teachers may then accept the model framework in total or draw ideas from it to incorporate into their lessons.

The guide is divided into 1) a broad goals section, 2) a content outline, 3) objectives and learning activities, and 4) materials. The first section provides descriptive and goal-oriented information for the teacher; "indicators of success" refers to suggested prerequisite or corequisite experiences. The content outline illustrates, in general terms, the scope and major subdivisions of the course. The objectives and learning activities section, hopefully, provides a total picture of the concept or main idea and specific behavioral objectives for a set of given learning activities. The materials section of the guide lists resources in four categories: essential textural or other material; alternate classroom materials to use in place of or in addition to the aforementioned; supplementary teacher resources; and supplementary student resources. The appendix may include other material appropriate for a specific course: e.g., pretests, readings, vocabulary, etc.

Anyone having recommendations relating to this publication is urged to write them down and send to: Social Studies Office, Room 306, Lindsey Hopkins, A-1.

James A. Fleming
Social Studies Consultant

COURSE DESCRIPTION: THE EVOLUTION OF LAW FROM BABYLONIAN TIMES TO THE PRESENT. FOCUS IS ON THE ORIGINS AND EVOLUTION OF OUR SYSTEM OF LAW.

CLUSTER: Political Studies
GRADE LEVEL: 10-12
COURSE STATUS: Elective
INDICATORS OF SUCCESS: Previous course work in World History and Government is recommended.

COURSE RATIONALE: Students of contemporary United States need to more fully understand the rights and responsibilities of citizens under the law. In this course, students will be given an opportunity to examine and make judgments upon the evolutionary nature of law and to recognize the importance of equal justice under the law.

COURSE GOALS:

1. THE STUDENT WILL DISCOVER RELATIONSHIPS BETWEEN CUSTOMS AND TABOOS OF PRIMITIVE TRIBES AND THE RESTRAINTS AND PROTECTION OFFERED BY WRITTEN LAW.

2. THE STUDENT WILL TRACE THE HISTORICAL DEVELOPMENTS WHICH NECESSITATED THE CODIFICATION OF WRITTEN LAW.

3. THE STUDENT WILL IDENTIFY AND DISCUSS CRITICALLY THE PROGRESSION OF LEGAL PHILOSOPHIES REPRESENTED BY THE CONTRIBUTIONS OF HAMMURABI, SOLON, JUSTINIAN, ENGLISH COMMON LAW, JOHN MARSHALL, AND SELECTED LEGAL DECISIONS IN THE CONTEMPORARY UNITED STATES.

4. THE STUDENT WILL ANALYZE MODERN EFFORTS IN THE UNITED STATES TO SECURE EQUAL JUSTICE UNDER THE LAW.

5. THE STUDENT WILL EXAMINE THE PROBLEMS OF ADMINISTERING JUSTICE IN THE UNITED STATES TODAY.

COURSE CONTENT OUTLINE:

I. What is law?

- A. Physical or Natural Law
- B. Social Law
- C. Primitive Law
  1. Absence of private property
  2. Force is sanctified

II. Birth of Written Law

- A. Unwritten Law
- B. A Written Language Evolves
- C. Need for Written Law

III. Progression of Legal Societies

- A. Man is Responsible for Society
  1. Hammurabi
  2. Solon
  3. Justinian
- B. Society is Responsible to Man
  1. English Common Law
  2. United States Constitution
  3. Equal Justice under Law

IV. Equal Justice Under Law

- A. Civil Law
  1. The Lawsuit
  2. Rules of Evidence
  3. Rights of Parties
  4. Recent Trends
  5. Court Organizations and Functions
- B. Criminal Law
  1. Interrogation and Arrest
  2. Defense and prosecution
  3. Verdict and appeal

V. Modern Judicial Problems

- A. Cost of Justice
- B. Overcrowded Courts
- C. Capital Punishment

AL 1: THE STUDENT WILL DISCOVER RELATIONSHIPS BETWEEN CUSTOMS AND TABOOS OF PRIMITIVE TRIBES AND OUR RESTRICTIONS AND PROTECTION OFFERED BY WRITTEN LAW.

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| LAW DEFINED | A. The student will recognize the difficulty of obtaining a definition of law that will suit everyone. (Physical or Natural Law) | 1. Begin the class with a general discussion on the definition of the law.<br>A. What is law?<br>B. Are there different kinds of laws?<br>C. Which laws govern our lives?<br>1. Involuntary laws<br>2. Voluntary laws<br>D. Are social laws merely extensions of physical laws? |
| | | 2. Using reference texts available in the classroom or the school library, students can write definitions for law. After reading the various definitions aloud in class, a "class definition", or several definitions can be chosen.<br>NOTE: It may prove interesting to repeat this exercise at the end of the course. |
| | | 3. A representative of the local Bar Association may be invited to address the class on the history of law, his personal experiences as a lawyer, the vocational opportunities in the legal profession, etc. |
| | B. The student will distinguish between the different types of laws which govern his life. (Social Law) | 1. Divide the class into several groups and assign each to prepare a listing of "laws" which govern their lives.<br>A. After a representative from each group has read his group's list to the class, a master list can be written |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | on the board or on a transparency.<br><br>B. Students should be encouraged to consider each item on the list and decide if it is a law established and enforced by "nature," family or peer group, local community (including school), state, nation, inter-national organization, or religious sanction.<br><br>2. The president of the school's student government may be invited to address the class on the various constitutions, codes, school board policies, etc., which govern students at the school and the rights and responsibilities of students.<br><br>3. The teacher may arrange with the Dean of the Law School at the University of Miami for assistance from law students during the course. Several law students may volunteer to meet with the class on a regularly scheduled basis. Their assistance can be an invaluable asset to the teacher and the class.<br><br>4. Arrange a field trip to the University of Miami Law Library to observe the amount of materials used in the field of law. |
| PRIMITIVE LAW<br>(SOME FORM OF LEGAL RESTRAINT IS REQUIRED BY ALL SOCIETIES) | C. The student will analyze the conditions of primitive man which required a rudimentary legal system.<br>(Absence of Private Property) | 1. Assign several students to investigate the concept of law held by the Aborigines or similar primitive group and report back to the class.<br><br>2. After the report, view the film, Law and Social Control. Students may discuss the social adjustments made by the Aborigines to their environment. |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | A. Why do their lives seem to be ruled by myths?<br><br>B. What is the basis for social rules in this society?<br><br>C. Why has it been necessary for this society to develop "rules for behavior"?<br><br>D. Who decides what the "rules of behavior" will be and how are they communicated to the people, including future generations?<br><br>3. Given the situation that because primitive man was faced with a hostile environment, he was forced to develop intricate social "codes" which were the forerunners of modern laws, the students should develop lists of the topics for such codes which may include:<br><br>A. Marriage<br><br>B. Food Sharing<br><br>C. Task Assignments<br><br>D. Religious Obligations<br><br>4. After reading the chapter, "Needs and Culture" in Ashley Montagu's, Man: His First Million Years, the students can be assigned to write short essays about the educability of man enabling him to evolve increasingly complex patterns of group living. The essays should be read aloud in class. The teacher can direct attention to themes in the essays which eventually will be part of the basis for modern laws by asking: |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | A. How does the number of obligatory (legal) relationships between men increase?<br><br>B. What were the relative merits of competition and cooperation in primitive society?<br><br>C. Why did the "inventions" of primitive men require task differentiation and specific group and individual responsibilities? |
| 11 | | 5. Students can be called upon to discuss the theory that an absence of private property in the modern sense required strictly enforced tribal cooperation in primitive societies. Evidence for their opinions can be based on the information provided by Ashley Montagu in the chapter, "Attempting To Make The Best Of It", Man: His First Million Years, and "The Prehistoric Ages of Man", World History and Cultures. |
| THEORY OF LAW | D. The student will compare the use of sanctified force in primitive societies with modern laws. | 1. Introduce the terms Consent Theory, Reform Theory, Retaliation Theory, Intimidation Theory, and Security Theory:<br><br>A. Using dictionaries or other reference sources, students should write brief definitions for the theories.<br><br>B. After drafting the definitions, the students should give examples from both primitive and contemporary societies which illustrate the theories.<br><br>NOTE: Ashley Montagu, Man: His First Million Years, can be used for illustrations from primitive societies, and the daily newspapers can provide contemporary examples. |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | 2. After viewing the film, How Laws Develop, the students can be asked to describe how man has developed and enforced his laws. The students should consider the following criteria in their examples:<br><br>A. Why does each society tend to value and emphasize a certain aspect of human behavior?<br><br>B. Why are many crimes of primitive man (murder, theft, etc.) also problems for modern man?<br><br>C. Why is there such a difference between the severity of punishments meted in primitive societies as compared with modern laws?<br><br>D. Can a penalty imposed for lawbreaking be explained as simply a substitute for failure to enforce obedience in the first place?<br><br>3. Class discussion on possible reasons why modern societies impose the death penalty for such crimes as murder, treason, kidnapping, etc. |

GOAL 2: THE STUDENT WILL TRACE THE HISTORICAL DEVELOPMENTS WHICH NECESSITATED THE CODIFICATION OF WRITTEN LAW.

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| WRITTEN LAW WAS NOT REQUIRED BY PRIMITIVE SOCIETIES | A. The student will explain why written laws were not required by primitive societies. | 1. After reading chapter 2, "Prehistoric Man," in the Record of Mankind, the students should discuss the factors which restrained primitive man (and which exerted no pressure toward the development of written laws). The teacher should insure that the discussion includes analysis of the effect of:<br>A. A Non-agrarian economy<br>B. Nomadic - but within a limited area - tribes<br>C. Inventiveness usually confined to creations for daily survival |
| | | 2. After viewing the film, The American Indian Before Columbus, the students should list methods by which non-written communication was achieved, particularly as related to the transmission of values, customs, etc. |
| | | 3. Class discussion can be conducted on the theme, "How Young Children Learn To Behave Before They Can Read." Some of the students may have younger brothers and sisters and can give personal examples. The teacher should guide the discussion toward considering the importance of personal example, verbal cues, reward/punishment, and play acting as effective forms of non-written communication. |
| | B. The student will cite evidence for the need to have a written language as civilization advanced. | 1. After reading chapter 2, "Kingdoms of Ancient Middle East," in World History and Cultures, students can develop lists of inventions and social behavior patterns which required a written language. The following conditions should be noted:<br>A. Agrarian (established) Settlements, including sophis- |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | ticated agricultural methods--irrigation, crop rotation, etc.<br><br>B. Commingling of tribes<br><br>C. Establishment of "state religions"<br><br>2. Using the suggestions made in Teachers Manual for World History and Culture, the teacher can call upon the students to develop requirements for a written language in non-primitive societies based upon advancements in the art of war, commerce, and, of course, law.<br><br>3. Class discussion on the problems agrarian societies had protecting their lands as compared with primitive tribes. It should be emphasized that an established agrarian society could not easily move away and abandon its investment if threatened.<br><br>4. Students should read chapter 3, "Civilizations In The Middle East," of The Record of Mankind, and compare the complexities of these societies with primitive tribes.<br><br>5. Have the students write an essay: "Written Law Was Necessary As Civilization Advanced." |
| WRITTEN LAWS ARE REQUIRED TO SUSTAIN COMPLEX ECONOMIC AND POLITICAL SYSTEMS | | |

GOAL 3: THE STUDENT WILL IDENTIFY AND DISCUSS CRITICALLY THE PROGRESSION OF LEGAL PHILOSOPHIES REPRESENTED BY THE CONTRIBUTIONS OF HAMMURABI, SOLON, JUSTINIAN, ENGLISH COMMON LAW, JOHN MARSHALL, AND SELECTED LEGAL DECISIONS IN THE CONTEMPORARY UNITED STATES.

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| MILESTONES OF LEGAL THOUGHT | A. The student will isolate "milestones" in legal thought and examine the main contributions by selected legal philosophers. | 1. Students, either individually or as group projects, can complete short-range research projects to include the following topics:<br>A. Hammurabi: Law Giver<br>B. Solon: Inspired Administrator<br>C. Roman Legal System: Noble Assimilators<br>D. Justinian: Protector of An Empire<br>E. The Magna Carta: A Division of Power<br>F. English Common Law: A Day In Court<br>G. John Marshall: The Law Is Supreme<br>2. Using the titles recommended above, the teacher should encourage the students to emphasize the innovative and synthesizing efforts of succeeding legal systems.<br>3. Students should be encouraged to utilize texts available to the entire class as a basis for their reports before obtaining supplementary information from outside sources.<br>NOTE: The teacher should arrange for oral reports by students that will complement the class schedule for studying the various legal philosophies. Reports can be assigned at the beginning of the course to allow time for student research.<br>4. Students can design and execute posters which present the basic tenets of various legal codes, i.e., Hammurabi's Code, |

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| | | Roman Law Tablets, The Magna Carta, excerpts from English Common Law, The English Petition of Right, The English Bill of Rights, The United States Bill of Rights, The United Nations Universal Declaration of Human Rights, etc. The posters can be displayed in the classroom and utilized during student reports and class discussions. |
| MAN IS RESPONSIBLE TO SOCIETY | B. The student will recognize the influence of advanced communal life upon legal concepts as represented by Hammurabi, Solon, and Justinian. | 1. Following an individual or group report on Hammurabi, the teacher can stimulate class discussion by asking:<br>A. Why did Hammurabi devote much attention to means of settling agricultural disputes?<br>B. Why was the concept of compensation brutal (as compared with modern legal practice), i.e., an eye for an eye, a limb for a limb, etc.<br>C. How did Hammurabi's Code strengthen the dominance of ruler over subject. |
| | | 2. Assign readings in chapter 5, "Life In Mesopotamia", chapter 19, "The Greek City States," in Building The Modern World, and chapter 1, section 7, "The Judaeo-Christian Heritage," in The Shaping of Western Society:<br>A. The students should discuss the differences between the societies of Hammurabi and Solon.<br>B. The teacher can stimulate class discussion by asking how the more complex Greek society required a more detailed, subtle legal system than Hammurabi's Code (note advancements in science and philosophy). |
| | | 3. Following student reports on Solon, the Roman Legal System, |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | and Justinian, students should examine the responsibilities of leadership:<br><br>A. In a limited agricultural community<br><br>B. In a more cosmopolitan trading community<br><br>C. In an empire governing diverse peoples and cultures. |
| ROMAN LAW | C. The student will propose reasons for the influence of Roman Law upon contemporary law. | 1. After reading chapter 1, "Law and the Roman Empire," in The Shaping of Western Society, the students should:<br><br>A. Define the Roman concept of justice and explain what the Romans meant by the terms "good and fair."<br><br>B. List Roman legal terms and concepts used in contemporary legal systems. |
| | | 2. Led by the student (or students) who prepared reports on Roman Law and Justinian, the class should prepare a list of earlier legal concepts assimilated into Roman legal philosophy. |
| | | 3. Based on chapter 8, "Our Debt to the Romans," in The Record of Mankind, the students should trace the extension of the principles of Roman Law throughout Europe. |
| | | 4. Students can prepare maps that display the Roman Empire. (See 1971 Annual of World Book Encyclopedia, Field Enterprises). What effect would this vast territory have upon written law? |

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| | | 6. Invite the school Latin teacher to the class to discuss the day to day life of the Romans and the functioning of their legal system. (The Latin teacher may also be encouraged to comment on the contributions of Cicero to legal philosophy, the use of Latin terms in modern legal terminology, and the effect of the Roman Empire upon the legal systems of Europe.) |
| SOCIETY IS RESPONSIBLE TO MAN | D. The student will investigate the growth of the middle class in Medieval Europe and the increased concern for individual liberty and private property. | 1. Assign readings in Unit 12, "Europe During The Later Middle Ages," in Building The Modern World and have students:<br>A. Describe the growth of profit-taking as an influence upon the court decisions.<br>B. Explain the growing power of a middle class of merchants. |
| | | 2. After readings in chapter 2, "Medieval Society," in The Shaping of Western Society, students should identify who made the decisions to:<br>A. Wage War<br>B. Construct public works<br>C. Codify laws<br>(The student should state the principles which guided these decisions with emphasis on the transfer of power from an isolated, "divine" ruler to popular rule.) |
| | | 3. Using information provided in chapter 11, "Medieval Culture," in World History and Cultures, students should explain: |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | A. The importance of town charters<br>B. The role of guilds in formulating basic rules of liability<br>C. The use of land tenure as kings began to lose power<br>D. The growing need for "law and order" as merchants gained wealth<br>E. The impact of printing on the dissemination of legal rights and responsibilities |
| | | 4. Have students report on the Magna Carta as a step toward increased concern for individual liberty and private property. |
| ENGLISH COMMON LAW | E. The student will describe the functioning of English courts and their influence upon the United States legal system. | 1. Have several students report on English Common Law. |
| | | 2. The teacher or students may trace the development of English Law.<br>A. Describe the evolutionary process of English Common Law.<br>B. Explain the different roles of barristers and solicitors in English courts and compare with the United States legal system.<br>C. Identify English legal procedures which are followed in United States courts (i.e., Habeas Corpus, trial by jury, assumption of innocence, adversary system, etc.) |

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| | | NOTE: An excellent source for the teacher is chapter 13, "The Judges," in The Politics of American Democracy, (a college text). It provides a good comparison of American, English, and French legal systems. It may also be used as a source by some of the advanced students. |
| | | 3. After reading chapter 5, "The Growth of Parliament," in The Shaping of Western Society, students should analyze the progressive nature of the concept of individual liberty as demonstrated in a comparison of the Magna Carta and the English Bill of Rights. |
| | | 4. After reading chapter 5, "The Growth of Parliament," in The Shaping of Western Society, students should propose reasons why membership in a social class no longer was the sole determinant of political or legal rights and discern the effect of this achievement upon the legal foundations of the United States. |
| UNITED STATES CONSTITUTION | F. The student will discover the impact of the United States Constitution upon legal thought. | 1. After reading chapter 3, "Our Dynamic Constitution," in American Government, students should discuss the importance of:<br>A. Division of Powers<br>B. Separation of Powers<br>C. Federalism<br>D. National Supremacy<br>E. Federal judiciary with final appeal authority |

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| | | 2. Given copies of the English Bill of Rights and the United States bill of Rights, students should list and discuss critically the guarantees to individual freedoms and protection from the state provided by these documents. The following should be emphasized:<br>A. Freedom of speech and assembly<br>B. Freedom from self-discrimination<br>C. Prohibition of excessive bail or fines and cruel or unusual punishment<br>D. Right to trial<br>E. Due process<br>3. Student reports on John Marshall should be given.<br>4. Show film, John Marshall, or With Liberty and Justice for All, parts 1 and 2, or Justice, Liberty, and Law (Bill of Rights.)<br>5. Show film, This Honorable Court: The Supreme Court of the United States.<br>6. Students can extract summaries of selected landmark decisions by the United States Supreme Court from Cases In Constitutional Law. Recommended cases:<br>A. McCulloch v. Maryland (Division of Power)<br>B. Gibbons v. Ogden (Commerce) |

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| | | C. Calder v. Bull (Ex Post Facto Laws)<br><br>D. United States v. Lovett (Bills of Attainder)<br><br>E. West Virginia State Board of Education v. Barnette (Religion)<br><br>F. Brown v. Board of Education of Topeka (Race Discrimination and Equal Protection)<br><br>G. United States v. Wong Kim Ark (Citizenship)<br><br>7. Show film, Individual Rights: The Theory, and have students discuss the underlying principles of American democracy and legal institutions and their origins in the history of law.<br><br>8. Show film, Individual Rights: In Practice, and have students comment upon contemporary enforcement of the protection afforded by the United States Bill of Rights, i.e., equal protection under the law, all enforcement agencies responsible to the "Supreme Law of the Land," the impact of modern communications on the process of justice, etc. |

GOAL 4: THE STUDENT WILL ANALYZE MODERN EFFORTS TO SECURE EQUAL JUSTICE UNDER THE LAW.

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| LAWSUIT | A. The Student will recognize the objectives and parameters of civil law. | 1. After reading chapter 13, "The Federal Court System," in American Government, the students should write short essays describing the difference between civil and criminal law. The essays should include:<br>A. Types of disputes involved (including who might be plaintiffs and defendants)<br>B. Suits at law<br>C. Suits at equity<br>2. Students should read and discuss the introduction to, Lawsuit: Public Issues Series/Harvard Social Studies Project. Class discussion should be encouraged to consider:<br>A. Contrasts between civil and criminal law<br>B. The importance of precedence in civil law<br>3. The teacher may call upon students to participate in problem-solving activities involving civil law which are recommended in the concluding section of Lawsuit.<br>4. A lawyer from the local Bar Association can be invited to the classroom to give a brief presentation on the practice of civil law and to provide technical assistance in explaining legal terminology peculiar to civil law.<br>5. Students should be encouraged to examine several issues of local newspapers to locate reports about trials or other ju- |

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| | | dicial actions and to decide if civil law or criminal law is involved in each case. |
| ULES OF EVIDENCE | B. The student will examine the legal procedures involved in a lawsuit, especially the importance of rules of evidence in a trial. | 1. A field trip to a local court (or courts) is strongly recommended. Arrangements for such trips can be made by contacting judges' secretaries. |
| | | 2. The teacher can stimulate class discussion following the field trip proposed above by assigning a written summary exercise comparing the courtroom procedures observed during the field trip with the English system. |
| | | 3. Utilizing "A Pre-Trial Conference," in Lawsuit, students can present a dramatic reading in class. Following the reading the teacher can stimulate discussion by asking the review questions in the text. |
| | | 4. After reading "A Pre-Trial Conference," in Lawsuit, direct students to examine the pre-trial conference as a bargaining session where each side seeks its own advantage, asking:<br>A. What results did each side seek?<br>B. What support was provided by witnesses? Evidence?<br>C. What are the merits of an "out-of-court" settlement? |
| | | 5. Show the film, Basic Court Procedures. |
| | | 6. The entire class may be assigned to read "Donelon v. Long Island Railroad," in Lawsuit. The teacher may assign four |

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| | | students the additional task of isolating important sections of testimony in the trial. The students should be instructed to select those sections where the plaintiff's attorney is successful in obtaining testimony for the record which is detrimental to the defense. After the teacher has the selections of the four students, a role-playing situation may be utilized by having the four students tape record the selected testimony. After listening to the recording, the class should be asked to:<br><br>A. Explain why the admission of the selected testimony was critical to the plaintiff's case.<br><br>B. Speculate as to what the final outcome of the case might have been had the testimony not been admitted.<br><br>C. Evaluate the performances of the plaintiff and defense attorneys. |
| | | 7. The Bullman v. Horning case in Lawsuit can be used to illustrate the importance of rules of evidence. |
| RIGHTS OF PARTIES | C. The student will recognize that the duty of the court in a lawsuit is to determine the rights and duties of both parties. | 1. The teacher may assume that some class members have knowledge of actual civil cases (i.e., a lawsuit involving a member of the family). Constructive use of this experience should be made whenever possible.<br><br>2. After reading MacPherson v. Buick Motor Company in Lawsuit, students can be asked to summarize the basic positions taken by the two opposing attorneys regarding:<br><br>A. Rights and duties of the defendant |

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| | | B. Rights and duties of the plaintiff |
| | | 3. Assuming that the class is familiar with Ralph Nader's book Unsafe At Any Speed and the activities of "Nader's Raiders," the teacher can ask the class to compare recent efforts by Mr. Nader with the MacPherson v. Buick case. |
| | | 4. Selected students can give class reports on recent lawsuits concerning consumer protection. |
| | | 5. Show filmstrip series, The Fight For Our Rights: |
| | | A. Freedom Of The Press |
| | | B. Freedom Of Speech |
| | | C. Freedom Of Religion |
| | | D. The Right Of Peaceful Assembly |
| | | E. The Right To Bear Arms |
| | | F. The Right To Go To School |
| | | G. The Right To Vote |
| | | 6. Show film, Freedom To Speak, concerning the Irving Feiner v. New York case. |
| | | NOTE: The Dade County Young Lawyers Association and the Miami Herald have prepared an excellent handout |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | on this case and other civil and criminal law cases and legal procedures. Members of the Young Lawyers are also available for classroom presentations. |
| | | 7. Most high school business courses contain exercises in typing legal forms. The teacher may wish to contact the chairman of the Business Education Department and obtain copies of such forms. Also, typing students may be permitted to type abstracts from actual court decisions which can be reproduced and utilized in class activities. |
| RECENT LEGAL ACTIONS TO SECURE "EQUAL JUSTICE UNDER LAW" | D. The student will discuss critically recent legal actions taken to secure "equal justice under the law." | 1. Students will read and contrast the decisions rendered in Plessy v. Ferguson 168 U.S. 537 (1896) and Brown v. Board of Education, Topeka 374 U.S. 483 (1954). What new circumstances were applied in 1954 which were not considered in 1896? |
| | | 2. Show the film, Equality Under Law: The Lost Generation of Prince Edward County. |
| | | 3. Show the film, Civil Rights Movement: Historic Roots. |
| | | 4. A representative of the local chapter of the American Civil Liberties Union can be invited to meet with the class and discuss that organization's legal activities. If such a classroom visit can not be arranged, the teacher should try to obtain resource materials from the ACLU to be used in class. |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | 5. Have the students discuss or write a paper on how they think these recent trends will affect the American scene in the near future. (When they are adults) |
| ORGANIZATIONS AND FUNCTIONS OF COURTS | E. The student will describe the organization and functions of the various local, state, and federal courts in the United States. | 1. After reading chapter 13, "The Federal Court System," in American Government, students can be assigned to trace the appeal route of a lawsuit from a U.S. District Court to the U.S. Supreme Court. The same exercise involving state courts can be used after the students have read chapter 18, "The State Courts," American Government. |
| | | 2. Individual students may make classroom reports on the various regular and special courts of the state and federal systems. |
| | | 3. Show the film, This Honorable Court: The Supreme Court of the United States. |
| | | 4. Individual students may be assigned to make class reports on the various local and state courts which handle civil cases, especially:<br>A. Justice and Magistrate Courts<br>B. Small Claims Court<br>C. Traffic Court<br>D. Juvenile Court<br>E. County Court<br>F. Circuit Court |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | G. State Supreme Court<br>H. Probate<br>I. Domestic Relations |
| CRIMINAL LAW | F. The student will describe the various procedural stages of a criminal case. | 1. After reading chapter 13, "The State Courts," in American Government, the students should list the procedural steps of a criminal case, including a brief explanatory summary for each step.<br>2. Students can prepare posters presenting the procedural stages of both civil and criminal cases.<br>3. After reading section 3, "Criminal Procedures," in Crimes and Justice: Justice In Urban America, students should discuss the process of criminal justice.<br>A. Investigation<br>B. Arrest<br>C. Booking<br>D. Initial Appearance<br>E. Indictment<br>F. Arraignment<br>G. Trial<br>H. Sentencing |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | I. Appeal<br>J. Imprisonment<br>K. Parole |
| | | 4. A practicing criminal attorney can be invited to discuss with the class his experiences in criminal law with emphasis on criminal procedure. |
| | | 5. Students who prepared reports on historical legal systems (Roman Law, English Common Law, etc.) can participate in a panel discussion contrasting historical criminal procedure with contemporary United States practices. |
| | | 6. Show film, Criminal Justice In The United States or You And The Law. |
| ADVERSARY SYSTEM | G. The student will analyze the "adversary system" of criminal cases. | 1. After viewing the film, Due Process of Law Denied, students should write short critiques on the following:<br>A. Does the adversary system work to the advantage or disadvantage of the defendant?<br>B. What are the presumed goals of the Prosecutor? The Defense Attorney?<br>C. How does the adversary system lend itself to criticism that justice can be bought? |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | 2. Using periodicals and popular biographies, selected students can make reports on famed criminal lawyers. |
| | | 3. Assign several students to compare the roles of lawyers in English and United States criminal cases. |
| RIGHT TO COUNSEL | H. The student will discover the importance of the "right to counsel" and protection against "self-incrimination" in criminal cases. | 1. Based on readings in Crimes and Justice: Justice in Urban America, students should discuss the differing rights of the accused in:<br>A. A search with warrant<br>B. A search without warrant |
| | | 2. Students can give class reports on landmark cases involving "search and seizure."<br>Examples:<br>A. Boyd v. The United States 116 U.S. 61y (1886)<br>B. Olmstead v. The United States 277 U.S. 438 (1928)<br>C. United States v. Rabinowitz 339 U.S. 56 (1950) |
| | | 3. Class discussion on contemporary legal attitudes toward wiretapping and electronic surveillance. |
| | | 4. Show film, Search and Privacy. |

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| | | 5. After seeing the film, Justice Under The Law: The Gideon Case, the class can discuss the importance of "right to counsel." |
| | | 6. Several students may interview a member of the local Public Defender's staff and report to the class on that agency's role in seeking "equal justice under the law." |
| | | 7. Show film, The Right To Counsel (The Fight For Our Rights). |
| | | 8. An officer of a local law enforcement agency can be invited to address the class on how the police insure the rights of an accused prior to trial. |
| | | 9. Show film, Interrogation and Counsel. |
| | | 10. Selected students might investigate and prepare reports on the cases Escobedo v. Illinois (1963) and Miranda v. Arizona (1966). The students can present their reports to the class and lead a discussion on the impact of these cases on contemporary United States efforts to secure protection against self-incrimination. |
| | | 11. A class dramatization based on information in Law And The City: Justice In Urban America about the Escobedo v. Illinois case can be presented in class. |

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| **FAIR TRIAL** | I. The student will examine the legal safeguards of a "fair trial" and "right to appeal." | 1. Class discussion on the requirements for a "fair trial."<br>A. The right of an accused person to confront the witnesses against him.<br>B. An impartial judge<br>C. An impartial jury<br><br>2. After readings in Crimes and Justice: Justice In Urban America, students should discuss the "fair trial" rights of the accused in three cases:<br>A. Pointer v. Texas (1965)<br>B. Tumey v. Ohio (1927)<br>C. Sheppard v. Maxwell (1966)<br><br>3. Based on readings in American Government, selected students can report to the class on appeal procedures in state and federal courts.<br><br>4. A student can report to the class on the legal safeguards against "double jeopardy."<br><br>NOTE: The teacher can obtain case histories, abstracts of court decisions, and beneficial activity guides from Judgement - a department of Social Education, Magazine of National Council For The Social Studies. |

GOAL 5: THE STUDENT WILL EXAMINE THE PROBLEMS OF ADMINISTERING JUSTICE IN THE CONTEMPORARY UNITED STATES TODAY.

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| COST OF JUSTICE | A. The student will investigate the cost of justice in the United States today. | 1. After reading George Manville's "Rose Bushes" in Lawsuit, students can discuss the often prohibitive cost of "justice." The teacher should stimulate the students to consider possible solutions for "George's Problem." |
| | | 2. Selected students may contact local lawyers and bondsmen concerning costs for their services and report to the class. |
| | | 3. A representative of the Economic Opportunity Program, Inc., (EOPI) Legal Services Branch can be invited to address the class on that agency's activities in aiding the impoverished and in initiating "class suits." |
| | | 4. Representatives of Legal Aid, ACLU, and other agencies established to provide free or reduced-cost legal assistance can be invited to address the class or to provide literature about their activities. |
| COURT DOCKETS | B. The student will examine the effect of crowded court dockets on the administration of justice in the United States today. | 1. Students may prepare reports on both the local and national aspects of crowded court dockets by researching local newspapers and national periodicals. |
| | | 2. Selected students may interview local judges about their caseloads and report to the class on the situation they discover. |
| | | 3. Selected students may interview representatives of the County Attorney's Office and the Public Defender's staff on the effect of overcrowded courts in the community and report their findings to the class. Some recommended questions to |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | be asked by the students are:<br>A. Does overcrowding result in increased guilty pleas?<br>B. Does overcrowding often result in many "innocent" persons spending long periods in confinement before trial?<br>C. What are recommended actions to ease the problem?<br>D. What are recommended actions to end the problem?<br>4. Selected students, assisted by the teacher, may extract information concerning the effect of overcrowded court dockets from the President's Crime Commission's, The Challenge of Crime in a Free Society, and report their findings to the class. |
| CAPTIAL PUNISHMENT | C. The student will critically discuss the pro and con arguments concerning capital punishment. | 1. Assign several students to prepare for and present a debate; Resolved: Capital Punishment should be eliminated.<br>2. Selected students can do outside research on capital punishment in the various states of the United States and foreign countries (the New York Times Encyclopedia is an excellent source for this information) and report to the class.<br>3. The teacher can encourage a class discussion on comparing primitive man's concept of punishment with modern man's concept of punishment and "rehabilitation." |

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| | | 4. Advanced students may be encouraged to read Albert Camus' "Reflections On The Guillotine" in Resistance, Rebellion, and Death, and report to the class. |
| | D. The student will analyze law enforcement problems in the United States today. | 1. Show the film, Crime In The Cities.<br><br>After the class has seen this film, one of the community relations officers of a local law enforcement agency can be invited to address the class. It might be more effective if the law officer could view the film with the class prior to his address and subsequent class discussion. |
| | | 2. The teacher can assign readings in section 4, "America's Crime Problem," in Crimes and Justice: Justice In Urban America. Class discussion can be conducted on the following:<br><br>A. Growth of crimes against the person.<br><br>B. Growth of crimes against property.<br><br>C. What are "Crime Centers"?<br><br>D. Who are the "Offenders"? "Victims"?<br><br>E. Suggestions by private citizens on methods to control crime.<br><br>F. Suggestions by police forces on methods to control crime. |
| | | 3. Show the film, Non-Violent Dissent: Violent Dissent: The Establishment Responds, or Civil Disobedience. |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | 4. After reading section 59, "Civil Disobedience" -- with emphasis on "Four Ways To Go: Tommy Rodd Want To Jail" -- in Comparative Political Systems, students can discuss a citizen's responsibilities in a democratic society and what limitations on his freedoms are to be tolerated.<br><br>A. Should the citizen obey all laws?<br><br>B. What price should be paid for dissent? |
| | E. The student will predict how selected law enforcement problems in contemporary United States may be solved. | 1. Class discussion on the effectiveness of "establishment responses" to contemporary legal problems based on the film, The Establishment Responds.<br><br>2. Arrange a field trip to Miami-Dade Junior College to observe the Police Science Training Program.<br><br>3. Arrange a field trip to the Metropolitan Dade County or City of Miami Police Academies.<br><br>NOTE: To achieve effective results from the field trips, recommend in items 2 and 3 above, students should compare "modern police training methods" with earlier techniques. After the field trips, the students should be encouraged to speculate on the effectiveness of scientific police training in the future on crime prevention as well as crime detection.<br><br>4. After student research, class debates can be conducted on: |

| FOCUS | OBJECTIVE | LEARNING ACTIVITIES |
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| | | A. Should a national police force be organized?<br><br>B. Should all citizens be fingerprinted and other personal data be recorded in a national "Crime Prevention Data Bank"?<br><br>C. Should a national lawyers corps similar to the Teacher Corps and VISTA be organized?<br><br>D. Should a national commission be established to standardize laws throughout the fifty states? (Could this be accomplished without amending the Constitution?)<br><br>5. Students can investigate recent periodicals and prepare reports on innovative rehabilitation programs and prison reforms in the United States.<br><br>6. Selected students can present reports on technological innovations which may be used to reduce crowded court dockets and speed up trial procedures, i.e., closed circuit television, computers, revised bail-bond procedures, etc.<br><br>7. Ask the students to write an essay or discuss the topic: In which period of time (those periods covered by this course) the student would like to live, in relation to the legal spectrum. |

MATERIALS:

1. RECOMMENDED BASIC TEXTUAL AND OTHER MATERIALS:

Bassiouni, M. Cherif, et al. Crimes and Justice: Justice In Urban American Series. Boston: Houghton Mifflin Co., 1969 (Paper. Junior High level) (State adopted)

Bruntz, George G. and John Bremer American Government. Boston: Ginn and Co., 1965

Good, John M. The Shaping of Western Society. New York: Holt, Rinehart, and Winston, Inc., 1968. (state adopted)

Oliver, Donald W., and Fred M. Newman The Lawsuit: Public Issues Series/Harvard Social Studies Project Middleton, Connecticut American Education Publications, 1970 (Paper)

2. ALTERNATE STUDENT AND CLASS MATERIAL:

A. Films:

| | Dade County Number |
|---|---|
| Criminal Justice In The United States | 1-30064 |
| Basic Court Procedures | 1-10238 |
| Civil Rights Movement: Historic Roots | 1-13504 |
| Crime In The Cities | 1-30076 |
| Due Process Of Law Denied | 1-30073 |
| Equality Under The Law: The Lost Generation Of Prince Edward County | 1-31577 |
| Freedom To Speak: People Of New York v. Irving Feiner | 1-31579 |
| Justice, Liberty, and Law | 1-13714 |
| Interrogation and Counsel | 1-13708 |
| John Marshall | 1-12466 |
| Law and Social Controls | 1-30048 |
| Search and Privacy | 1-13707 |
| With Liberty and Justice For All, Part 1 | 1-30058 |
| With Liberty and Justice For All, Part 2 | 1-30060 |

B. Filmstrips:

American Indian Before Columbus. (First two filmstrips of The American Indian: A Study In Depth. Warren Schleat, 6 filmstrips, three records, and guides.)

The Fight For Our Rights. Warren Schleat, 8 filmstrips, 4 records, and guides.

- Freedom of the Press
- Freedom of Speech
- Freedom of Religion
- Right to Peaceful Assembly
- Right to Bear Arms
- Right to Counsel
- Right to School
- Right to Vote

Law and Order. Warren Schleat, 6 filmscripts, 3 records, and guides.

- How Laws Develop
- Individual Rights - The Theory
- Individual Rights - In Practice
- Non-Violent Dissent
- Violent Dissent
- The Establishment Responds

This Honorable Court: The Supreme Court of the United States. Guidance Associates, 2 filmstrips, 2 records, and guide.

You and The Law. Guidance Associates, 2 filmstrips, 2 records, and guide.

Civil Disobedience. Guidance Associates, 2 filmstrips, 2 records, and guide.

2. SUPPLEMENTAL PUPIL RESOURCES:


Black, Henry Campbell Black's Law Dictionary. St. Paul: West Publishing, 1951.

Camus, Albert Resistance, Rebellion, and Death. New York: Modern Library, 1960.

Cushman, Robert E. and Robert F. Cases In Constitutional Law. New York: Appleton-Century-Crofts, Inc. 1958.

The Eagleton Institute of Politics Contemporary Issues in American Democracy. St. Louis: The Eagleton Institute of Politics, 1969.

East, Sara Toll, Editor Law In American Society. New York: H. W. Wilson, 1963.

Goldberg, George The Supreme Court In American Life: The Uses and Abuses of Judical Review. Lexington, Massachusetts: D. C.Heath, 1970 (Paper)

Givens, Willard E., and Belmont Farley The Road to Freedom. Washington, D.C.: Ancient and Accepted Scottish Rite of Freemasonry, Southern Jurisdiction, U.S.A., 1960 (Paper). (Free class sets available from local Scottish Rite Temple)

Habberton, William, et al. World History and Cultures. River Forest, Illinois: Laidlow Brothers, 1966.

Honnold, John, Editor The Life of the Law. New York: MacMillan, 1964.

Montagu, Ashley Man: His First Million Years. New York: New American Library, 1961. (Paper)

President's Crime Commission The Challenge of Crime In a Free Society. Washington, D.C.: U.S. Government Printing Office, 1967. (Paper)

Reich, Jerome R., et al. Building The Modern World. New York: Harcourt, Brace, and World, 1969.

Roehm, A. Wesley, et al. The Record of Mankind. Lexington, Massachusetts: D.C. Heath, 1970.

Schultz, Mindella Comparative Political Systems. New York: Holt, Rinehart, and Winston, 1967.

Stuber, Stanley I. Human Rights and Fundamental Freedoms in Your Community. New York: National Board of Young Men's Christian Associations, 1968. (Paper)

3. SUPPLEMENTAL TEACHER RESOURCES:

Friedrich, Carl Joachim The Philosophy of Law in Historical Perspective. Chicago: University of Chicago Press, 1963

Keith, Arthur Evolution and Ethics. Putnam, New York: 1947

Protho, James W. and Marian D. Irish The Politics of American Democracy. Englewood Cliffs, New Jersey: Prentice-Hall, 1968

Zane, John Maxcy The Story of Law. New York: Ives Washburn, 1927

42